

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1242

Citations Affected: IC 5-13; IC 5-14-3; IC 6-1.1-23-1; IC 8-17-4.1; IC 8-23-3-8; IC 20-14-7-2; IC 33-19-6.5; IC 35-33-9-7; IC 36-1-8; IC 36-2-7-9; IC 36-4-6-19; IC 36-6; IC 36-7-4-208; IC 36-8; IC 36-9-13-30; IC 36-10-4-16; IC 36-4-10-6.

Synopsis: Local government matters. Conference committee report for EHB 1242. Requires the investing officer of most political subdivisions to use multiple depositories. Removes the requirement that multiple depositories be used for investment certificates of deposit. Removes the requirement of certifying a budget transfer to the county auditor. Allows a fiscal officer to appropriate insurance receipts. Amends the law concerning the annual road and street report. Requires a local rainy day fund: (1) transfer to be made after the last day of the fiscal year and before March 1 of the subsequent calendar year; and (2) to be established only by ordinance or resolution. Removes a requirement that a finding must be made that an appropriation is consistent with the intent of the fund. Allows a political subdivision to collect a credit card charge for costs charged to the political subdivision for accepting credit cards. Requires adoption of a second class city's police and firefighter salary ordinance by September 20. Allows a municipality with a fire department to establish a hazardous materials response fund for the deposit of service charges. Restates the annual meeting of the township legislative body. Eliminates the requirement that township employees, deputies, and assistants be paid on a monthly basis. Allows distributions from the Marion County public mass transportation fund to the public transportation corporation. Allows a cash management system contract to be renewed with the same or better terms. Allows a county treasurer's agent to serve a demand for delinquent personal property taxes. Removes provisions that require some duties of the South Bend or Mishawaka fiscal officer to be performed by the St. Joseph County treasurer. Requires a court clerk to collect a credit card service fee. Allows a county property owner to serve on a county plan commission if the county lacks an agricultural extension educator. Makes annexation provisions that apply to other municipalities applicable to a city in St. Joseph County. Allows a county building authority to sell revenue bonds at a private or negotiated sale. Allows a member of an airport authority board to participate in meetings from a location other than the meeting site if certain requirements are met. If disclosure of a public record would have a reasonable likelihood of threatening public safety by exposing vulnerability to a terrorist attack: (1) the public agency may prevent disclosure of the records; (2) a state agency may consult with the counterterrorism and security council regarding the request for disclosure. Requires a public agency that owns or operates an airport to approve disclosure of records concerning airport

buildings. Moves a provision concerning disclosure of lists of names and addresses to another location in the public records statute. **(This conference committee report inserts the following provisions: (1) Clerk's credit card service fee. (2) Plan commission membership absent a county agricultural extension educator. (3) Annexation provisions for a city in St. Joseph County. (4) County building authority sale of revenue bonds. (5) Airport authority board meetings. (6) Records disclosure and risk of terrorist attack. Makes a technical change. Removes a provision from EHB 1242 regarding deadlines for county surplus tax fund refund claims.)**

Effective: Upon passage; July 1, 2003; January 1, 2004.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1242 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-13-8-9 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) All public funds of all
- 4 political subdivisions shall be deposited in the designated depositories
- 5 located in the respective territorial limits of the political subdivisions,
- 6 except as provided in this section.
- 7 (b) Each board of finance of a political subdivision:
- 8 (1) that is not a city, town, or school corporation; and
- 9 (2) whose jurisdiction crosses one (1) or more county lines;
- 10 may limit its boundaries for the purpose of this section to that portion
- 11 of the political subdivision within the county where its principal office
- 12 is located.
- 13 (c) If there is no principal office or branch of a financial institution
- 14 located in the county or political subdivision, or if no financial
- 15 institution with a principal office or branch in the county or political
- 16 subdivision will accept public funds under this chapter, the board of
- 17 finance of the county and the boards of finance of the political
- 18 subdivisions in the county shall designate one (1) or more financial
- 19 institutions with a principal office or branch outside of the county or
- 20 political subdivision, and in the state, as a depository or depositories.
- 21 (d) The board of trustees for a hospital organized or operated under
- 22 IC 16-22-1 through IC 16-22-5 or IC 16-23-1 may invest any money in

the hospital fund anywhere in the state with any financial institution designated by the state board of finance as depositories for state deposits.

(e) If only one (1) financial institution that has a branch or principal office in a county or political subdivision is willing to accept public funds, the board of finance for the county or political subdivision may:

- (1) treat the financial institution that is located within the county or political subdivision as if the financial institution were not located within the county or political subdivision; and
- (2) designate one (1) or more financial institutions to receive public funds under the requirements of subsection (c).

(f) The investing officer shall maintain the deposits as follows:

(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all the transaction accounts for the political subdivision does not exceed one hundred thousand dollars (\$100,000).

(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and fewer than three (3) financial institutions are designated by the local board of finance as a depository.

(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.

SECTION 2. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository. ~~The fiscal body of a political subdivision shall require the investing officer to deposit and maintain deposits that are invested or reinvested under this subsection as follows:~~

~~(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all of the transaction accounts for the political subdivision does not exceed one hundred thousand dollars (\$100,000):~~

~~(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and less than three (3) financial institutions are designated by the local board of finance as a depository:~~

~~(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository:~~

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by

the investing officer as a public record of the political subdivision under IC 5-14-3. A deposit made under this subsection shall be placed in the designated depository quoting the highest rate of interest. If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

SECTION 3. IC 5-13-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A contract may be renewed under this chapter if the county board of finance for a county subject to IC 5-13-7-1 or the fiscal body of a political subdivision and the investing officer of the political subdivision agree with the depository to renew the contract under the same terms or better terms as the original contract.**

(b) The term of a renewed contract may not be longer than the term of the original contract.

(c) A contract may be renewed any number of times.

SECTION 4. IC 5-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

- (1) identify with reasonable particularity the record being requested; and
- (2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute.

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). The public agency shall either:

- (1) provide the requested copies to the person making the request; or
- (2) allow the person to make copies:
 - (A) on the agency's equipment; or
 - (B) on ~~his~~ **the person's** own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

- (1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.
- (2) Permit a governmental entity to use an electronic device to

inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map. ~~(as defined by IC 5-14-3-2).~~

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person ~~(as defined in IC 5-14-3-2)~~ for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(g) A public agency may not enter into or renew a contract or an obligation:

- (1) for the storage or copying of public records; or
- (2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute;

if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records.

~~(g)~~ **(h)** If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

SECTION 5. IC 5-14-3-4, AS AMENDED BY P.L.1-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
- (10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

~~(11) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):~~

- ~~(A) Telephone number.~~
- ~~(B) Social Security number.~~
- ~~(C) Address.~~

~~(12)~~ **(11)** A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for

inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of ~~his~~ **the person's** scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or ~~his~~ **the employee's** representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of ~~his~~ **the donor's** identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record

described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) domestic preparedness strategies;

(G) the location of community drinking water wells and surface water intakes;

(H) the emergency contact information of emergency responders and volunteers;

(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency.

A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses;

1 unless the public agency is required to publish such lists and
 2 disseminate them to the public pursuant to statute. However, if a public
 3 agency has created a list of names and addresses, it must permit a
 4 person to inspect and make memoranda abstracts from the lists unless
 5 access to the lists is prohibited by law. The following lists of names and
 6 addresses may not be disclosed by public agencies to commercial
 7 entities for commercial purposes and may not be used by commercial
 8 entities for commercial purposes:

9 (1) A list of employees of a public agency:

10 (2) A list of persons attending conferences or meetings at a state
 11 institution of higher education or of persons involved in programs
 12 or activities conducted or supervised by the state institution of
 13 higher education:

14 (3) A list of students who are enrolled in a public school
 15 corporation if the governing body of the public school corporation
 16 adopts a policy:

17 (A) prohibiting the disclosure of the list to commercial entities
 18 for commercial purposes; or

19 (B) specifying the classes or categories of commercial entities to
 20 which the list may not be disclosed or by which the list may not
 21 be used for commercial purposes:

22 A policy adopted under subdivision (3) must be uniform and may not
 23 discriminate among similarly situated commercial entities:

24 (d) (c) Nothing contained in subsection (b) shall limit or affect the
 25 right of a person to inspect and copy a public record required or
 26 directed to be made by any statute or by any rule of a public agency.

27 (e) (d) Notwithstanding any other law, a public record that is
 28 classified as confidential, other than a record concerning an adoption,
 29 shall be made available for inspection and copying seventy-five (75)
 30 years after the creation of that record.

31 (f) (e) Notwithstanding subsection (e) (d) and section 7 of this
 32 chapter:

33 (1) public records subject to IC 5-15 may be destroyed only in
 34 accordance with record retention schedules under IC 5-15; or

35 (2) public records not subject to IC 5-15 may be destroyed in the
 36 ordinary course of business.

37 SECTION 6. IC 5-14-3-9, AS AMENDED BY P.L.191-1999,
 38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 9. (a) A denial of disclosure by a public
 40 agency occurs when the person making the request is physically present
 41 in the office of the agency, makes the request by telephone, or requests
 42 enhanced access to a document and:

43 (1) the person designated by the public agency as being responsible
 44 for public records release decisions refuses to permit inspection
 45 and copying of a public record when a request has been made; or
 46 (2) twenty-four (24) hours elapse after any employee of the public
 47 agency refuses to permit inspection and copying of a public record
 48 when a request has been made;

49 whichever occurs first.

50 (b) If a person requests by mail or by facsimile a copy or copies of a
 51 public record, a denial of disclosure does not occur until seven (7) days

1 have elapsed from the date the public agency receives the request.

2 (c) If a request is made orally, either in person or by telephone, a
3 public agency may deny the request orally. However, if a request
4 initially is made in writing, by facsimile, or through enhanced access,
5 or if an oral request that has been denied is renewed in writing or by
6 facsimile, a public agency may deny the request if:

7 (1) the denial is in writing or by facsimile; and

8 (2) the denial includes:

9 (A) a statement of the specific exemption or exemptions
10 authorizing the withholding of all or part of the public record;
11 and

12 (B) the name and the title or position of the person responsible
13 for the denial.

14 **(d) This subsection applies to a board, a commission, a**
15 **department, a division, a bureau, a committee, an agency, an office,**
16 **an instrumentality, or an authority, by whatever name designated,**
17 **exercising any part of the executive, administrative, judicial, or**
18 **legislative power of the state. If an agency receives a request to**
19 **inspect or copy a record that the agency considers to be excepted**
20 **from disclosure under section 4(b)(19) of this chapter, the agency**
21 **may consult with the counterterrorism and security council**
22 **established under IC 4-3-20. If an agency denies the disclosure of**
23 **a record or a part of a record under section 4(b)(19) of this**
24 **chapter, the agency or the counterterrorism and security council**
25 **shall provide a general description of the record being withheld**
26 **and of how disclosure of the record would have a reasonable**
27 **likelihood of threatening the public safety.**

28 (e) A person who has been denied the right to inspect or copy a
29 public record by a public agency may file an action in the circuit or
30 superior court of the county in which the denial occurred to compel the
31 public agency to permit the person to inspect and copy the public
32 record. Whenever an action is filed under this subsection, the public
33 agency must notify each person who supplied any part of the public
34 record at issue:

35 (1) that a request for release of the public record has been denied;
36 and

37 (2) whether the denial was in compliance with an informal inquiry
38 response or advisory opinion of the public access counselor.

39 Such persons are entitled to intervene in any litigation that results from
40 the denial. The person who has been denied the right to inspect or copy
41 need not allege or prove any special damage different from that
42 suffered by the public at large.

43 ~~(e)~~ **(f)** The court shall determine the matter de novo, with the burden
44 of proof on the public agency to sustain its denial. If the issue in de
45 novo review under this section is whether a public agency properly
46 denied access to a public record because the record is exempted under
47 section 4(a) of this chapter, the public agency meets its burden of proof
48 under this subsection by establishing the content of the record with
49 adequate specificity and not by relying on a conclusory statement or
50 affidavit.

51 ~~(f)~~ **(g)** If the issue in a de novo review under this section is whether

a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

~~(g)~~ **(h)** The court may review the public record in camera to determine whether any part of it may be withheld under this chapter.

~~(h)~~ **(i)** In any action filed under this section, a court shall award reasonable ~~attorney~~ **attorney's** fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

~~(i)~~ **(j)** A court shall expedite the hearing of an action filed under this section.

SECTION 7. IC 6-1.1-18-6, AS AMENDED BY P.L.90-2002, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The proper officers of a political subdivision may transfer money from one major budget classification to another within a department or office if:

(1) they determine that the transfer is necessary;

(2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article; **and**

(3) the transfer is made at a regular public meeting and by proper ordinance or resolution. ~~and~~

~~(4) the transfer is certified to the county auditor.~~

(b) A transfer may be made under this section without notice and without the approval of the department of local government finance.

SECTION 8. IC 6-1.1-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. Notwithstanding the other provisions of this chapter, the ~~appropriating body~~ **fiscal officer** of a political subdivision may appropriate funds received from an insurance company if:

(1) the funds are received as a result of damage to property of the political subdivision; and

(2) the funds are appropriated for the purpose of repairing or replacing the damaged property.

However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after they are received.

SECTION 9. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Annually, after November 10th but prior to August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. The written demand may be served upon the taxpayer:

(1) by registered or certified mail;

(2) in person by the county treasurer or ~~his deputy~~; **the county treasurer's agent**; or

(3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

(1) a statement that the taxpayer is delinquent in the payment of personal property taxes;

(2) the amount of the delinquent taxes;

(3) the penalties due on the delinquent taxes;

(4) the collection expenses which the taxpayer owes; and

(5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or

(B) a judgment may be entered against the taxpayer in the circuit court of the county.

SECTION 10. IC 8-17-4.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The governing body shall prepare by ~~December 31~~ **April 15** of each year an operational report **for the prior calendar year** of the department within the county or municipality that has road and street responsibilities.

SECTION 11. IC 8-17-4.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. ~~(a)~~ This report shall be prepared on forms prescribed by the state board of accounts and must disclose ~~for the calendar year the following~~:

~~(1) The receipts of the department and the sources of the receipts;~~

~~(2) The expenditures of the department showing the purpose of each expenditure made and to account for all funds;~~

~~(3) The number of employees of the department each month and the work classifications of the employees;~~

~~(4) The proposed construction, reconstruction, and repair program following the year of the annual report;~~

~~(5) The maintenance expenses;~~

~~(b) The report must also include other all~~ information considered necessary by the state board of accounts to reflect the financial condition and operations of the department.

1 SECTION 12. IC 8-17-4.1-7 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The annual
 3 operational report must be completed and a copy filed with the state
 4 board of accounts, the governing body, and the department by ~~February~~
 5 ~~15 June 1~~ following the operational report year. The department shall
 6 make the report available to the public.

7 SECTION 13. IC 8-23-3-8 IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JANUARY 1, 2004]: Sec. 8. (a) The public mass
 9 transportation fund is established for the purpose of promoting and
 10 developing public mass transportation in Indiana. The fund shall be
 11 administered by the department.

12 (b) The treasurer of state may invest the money in the fund in the
 13 same manner as other public funds may be invested.

14 (c) Money in the fund at the end of a fiscal year does not revert to the
 15 state general fund.

16 ~~(d) Money distributed from the fund in a county containing a~~
 17 ~~consolidated city must be distributed to the consolidated city for~~
 18 ~~promoting and developing public mass transportation and not to a~~
 19 ~~public transportation corporation located within the county.~~

20 SECTION 14. IC 20-14-7-2 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The library board
 22 of any public library established as a 1901 city or town library consists
 23 of qualified and experienced persons of at least eighteen (18) years of
 24 age who have been residents of the municipality where the library is
 25 located for at least two (2) years immediately preceding their
 26 appointment. The members shall be appointed for two (2) year terms
 27 as follows:

28 (1) The board of commissioners of the county where the library is
 29 located shall appoint one (1) member.

30 (2) The fiscal body of the county where the library is located shall
 31 appoint one (1) member.

32 (3) The municipal executive shall appoint one (1) member.

33 (4) The municipal legislative body shall appoint one (1) member.

34 (5) The school board of the school corporation where the library is
 35 located shall appoint three (3) members who may be members of
 36 the school board.

37 (b) If a vacancy occurs on the library board for any cause, the
 38 appointing authority shall fill the respective vacancy. The appointing
 39 authority may at any time, for cause shown, remove any member of the
 40 library board and appoint a new member to fill the vacancy occasioned
 41 by this removal.

42 (c) The library board members shall serve without compensation.

43 (d) All appointments to membership on the library board shall be
 44 evidenced by certificates of appointment signed by the appointing
 45 authority. Certificates of appointment shall be handed to or mailed to
 46 the address of the appointee. Within ten (10) days after receiving the
 47 certificates of appointment, the appointees shall take an oath of office,
 48 before the clerk of the circuit court, that the appointee will faithfully
 49 discharge ~~his the appointee's~~ duties as a member of the library board
 50 to the best of ~~his the appointee's~~ ability. The appointee shall file the
 51 certificate, with the oath endorsed on it, with the clerk of the circuit

1 court of the county in which the library is located.

2 (e) Within five (5) days after all the members of the library board
3 have been appointed and have taken the oath of office, the members
4 shall meet and organize by electing one (1) of their number president,
5 one (1) vice president, and one (1) secretary. They shall also select
6 committees or an executive board to carry on the work of the board
7 should they determine that committees or an executive board is
8 necessary for this purpose.

9 (f) The facilities of a public library established as a 1901 city or town
10 library are open and free for the use and benefit of all of the residents
11 of the library district.

12 (g) The fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~
13 of the municipality operating a public library under this section shall
14 prepare and file with the municipal legislative body, before January 16
15 each year, an itemized statement, under oath, of all the receipts and
16 disbursements of the library board for the year ending December 31
17 immediately preceding the preparing and filing of the report. The report
18 must contain an itemized statement of the sources of all receipts, of all
19 disbursements made, and of the purpose for which each was made. This
20 annual report may be inspected by the citizens of the municipality and
21 township in which the library is located.

22 SECTION 15. IC 33-19-6.5 IS ADDED TO THE INDIANA CODE
23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2003]:

25 **Chapter 6.5. Credit Card Service Fee**

26 **Sec. 1. This chapter applies to any transaction in which:**

27 **(1) the clerk is required to collect money from a person,**
28 **including:**

29 **(A) bail;**

30 **(B) a fine;**

31 **(C) a civil penalty;**

32 **(D) a court fee or court cost; or**

33 **(E) a fee for the preparation, duplication, or transmission of**
34 **a document; and**

35 **(2) the person pays the clerk by means of a credit card, debit**
36 **card, charge card, or similar method.**

37 **Sec. 2. A payment made under this chapter does not finally**
38 **discharge the person's liability and the person has not paid the**
39 **liability until the clerk receives payment or credit from the**
40 **institution responsible for making the payment or credit. The clerk**
41 **may contract with a bank or credit card vendor for acceptance of**
42 **bank or credit cards. However, if there is a vendor transaction**
43 **charge or discount fee, whether billed to the clerk or charged**
44 **directly to the clerk's account, the clerk shall collect a fee from the**
45 **person using the bank or credit card. The fee is a permitted**
46 **additional charge to the money the clerk is required to collect**
47 **under section 1(1) of this chapter.**

48 **Sec. 3. The clerk shall forward credit card service fees collected**
49 **under this chapter to the county auditor or city or town fiscal**
50 **officer in accordance with IC 33-19-1-3(a). These funds may be**
51 **used without appropriation to pay the transaction charge or**

1 **discount fee charged by the bank or credit card vendor.**

2 SECTION 16. IC 35-33-8-9 IS ADDED TO THE INDIANA CODE
3 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
4 1, 2003]: **Sec. 9. In addition to any other condition of bail imposed**
5 **under this chapter, a defendant who posts bail by means of a credit**
6 **card shall pay the credit card service fee under IC 33-19-6.5.**

7 SECTION 17. IC 35-33-9-7 IS ADDED TO THE INDIANA CODE
8 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
9 1, 2003]: **Sec. 7. In addition to any other condition of bail imposed**
10 **under this chapter, a defendant who posts bail by means of a credit**
11 **card shall pay the credit card service fee under IC 33-19-6.5.**

12 SECTION 18. IC 36-1-8-5, AS AMENDED BY P.L.251-2001,
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2003]: Sec. 5. (a) This section applies to all funds raised by a
15 general or special tax levy on all the taxable property of a political
16 subdivision.

17 (b) Whenever the purposes of a tax levy have been fulfilled and an
18 unused and unencumbered balance remains in the fund, the fiscal body
19 of the political subdivision shall order the balance of that fund to be
20 transferred as follows, unless a statute provides that it be transferred
21 otherwise:

22 (1) Funds of a county, to the general fund or rainy day fund of the
23 county, as provided in section 5.1 of this chapter.

24 (2) Funds of a municipality, to the general fund or rainy day fund
25 of the municipality, as provided in section 5.1 of this chapter.

26 (3) Funds of a township for redemption of poor relief obligations,
27 to the poor relief fund of the township or rainy day fund of the
28 township, as provided in section 5.1 of this chapter.

29 (4) Funds of any other political subdivision, to the general fund or
30 rainy day fund of the political subdivision, as provided in section
31 5.1 of this chapter. However, if the political subdivision is
32 dissolved or does not have a general fund or rainy day fund, then
33 to the general fund of each of the units located in the political
34 subdivision in the same proportion that the assessed valuation of
35 the unit bears to the total assessed valuation of the political
36 subdivision.

37 (c) Whenever an unused and unencumbered balance remains in the
38 civil township fund of a township and a current tax levy for the fund is
39 not needed, the township fiscal body may order any part of the balance
40 of that fund transferred to the debt service fund of the school
41 corporation located in or partly in the township; but if more than one
42 (1) school corporation is located in or partly in the township, then any
43 sum transferred shall be transferred to the debt service fund of each of
44 those school corporations in the same proportion that the part of the
45 assessed valuation of the school corporation in the township bears to
46 the total assessed valuation of the township.

47 **(d) Transfers to a political subdivision's rainy day fund must be**
48 **made after the last day of the political subdivision's fiscal year and**
49 **before March 1 of the subsequent calendar year.**

50 SECTION 19. IC 36-1-8-5.1, AS AMENDED BY P.L.90-2002,
51 SECTION 461, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund ~~to receive transfers of unused and unencumbered funds under section 5 of this chapter. by the adoption of:~~

(1) **an ordinance, in the case of a county, city, or town; or**

(2) **a resolution, in the case of any other political subdivision.**

(b) **An ordinance or a resolution adopted under this section must specify the following:**

(1) **The purposes of the rainy day fund.**

(2) **The sources of funding for the rainy day fund.**

~~(b) (c)~~ (c) The rainy day fund is subject to the same appropriation process as other funds that receive tax money. ~~Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.~~

~~(c) (d)~~ (d) In any fiscal year, a political subdivision may transfer not more than ten percent (10%) of the political subdivision's ~~total annual~~ budget for that fiscal year ~~year, adopted under IC 6-1.1-17~~, to the rainy day fund.

~~(d) (e)~~ (e) **A political subdivision may use only the funding sources specified in the ordinance or resolution establishing the rainy day fund unless the political subdivision adopts a subsequent ordinance or resolution authorizing the use of another funding source.**

(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

SECTION 20. IC 36-1-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This section does not apply to a county treasurer governed by IC 36-2-10-23.

(b) As used in this section, "credit card" means a:

(1) credit card;

(2) debit card;

(3) charge card; or

(4) stored value card.

(c) A payment to a political subdivision or a municipally owned utility for any purpose may be made by any of the following financial instruments that the fiscal body of the political subdivision or the board of the municipally owned utility authorizes for use:

(1) Cash.

(2) Check.

(3) Bank draft.

(4) Money order.

(5) Bank card or credit card.

(6) Electronic funds transfer.

(7) Any other financial instrument authorized by the fiscal body.

(d) If there is a charge to the political subdivision or municipally owned utility for the use of a financial instrument, ~~other than a bank card or credit card~~, the political subdivision or municipally owned utility ~~shall may~~ collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(e) If authorized by the fiscal body of the political subdivision or the

board of the municipally owned utility, the political subdivision or municipally owned utility may accept payments under this section with a bank card or credit card under the procedures set forth in this section. However, the procedure authorized for a particular type of payment must be uniformly applied to all payments of the same type.

(f) The political subdivision or municipally owned utility may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards.

(g) The political subdivision or municipally owned utility may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card under this subsection.

(h) The authorization of the fiscal body of the political subdivision is not required by the bureau of motor vehicles or the bureau of motor vehicles commission to use electronic funds transfer or other financial instruments to transfer funds to the political subdivision.

SECTION 21. IC 36-2-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) When the county treasurer performs duties in a second class city under IC 36-4-10-6, the treasurer shall pay fees accruing exclusively on city business into the general fund of the city.~~

~~(b)~~ This chapter does not require the county sheriff to pay the following into the county general fund:

(1) Any damages set forth in a warrant that is issued by the department of state revenue and on which collection is made by the sheriff, including damages prescribed by IC 6-8.1-8.

(2) Sums, other than court fees, retained by the circuit court clerk for the sheriff from the collections obtained by warrants of the department of workforce development.

(3) Sums allowed by IC 36-8 to sheriffs for the feeding of prisoners.

SECTION 22. IC 36-4-3-5, AS AMENDED BY P.L.224-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners

may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

~~(f) In a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000); the court shall hear and determine the petition without a jury and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:~~

~~(1) essential city services and facilities are or can be made available to the residents of the territory sought to be annexed;~~

~~(2) the city is physically and financially able to provide city services to the territory sought to be annexed; and~~

~~(3) the territory sought to be annexed is contiguous to the city.~~

~~If the evidence does not establish all three (3) of the preceding factors, the court shall deny the petition and dismiss the proceeding.~~

SECTION 23. IC 36-4-3-11, AS AMENDED BY P.L.224-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsection (d), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by: ~~(1) if the annexation is by a city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000): (A) a majority of the owners of land in the annexed territory; or (B) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory; or (2) if the annexation is by a municipality that is not described in subdivision (1):~~

~~(A) (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or~~

~~(B) (2) the owners of more than seventy-five percent (75%) in~~

assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

SECTION 24. IC 36-4-3-13, AS AMENDED BY P.L.170-2002, SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence

establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria. ~~However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000); the fiscal plan of a city must show that these services will be provided to the annexed territory within four (4) years after the effective date of the annexation and in the same manner as those services are provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, or population density.~~

~~(e) This subsection does not apply to a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).~~ At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 25. IC 36-4-3-16, AS AMENDED BY P.L.217-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Within one (1) year after the expiration of:

- (1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter; **or**
- (2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter; **or**
- ~~(3) the four (4) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter by a city for annexed territory in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);~~

any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

- (1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.
- (2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.
- (3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

(c) The court may:

- (1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;
- (2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;
- (3) order the annexed territory or any part of it to be disannexed from the municipality;
- (4) order the municipality to submit a revised fiscal plan for

1 providing the services to the annexed territory within time limits
2 set up by the court; or

3 (5) grant any other appropriate relief.

4 (d) A change of venue from the county is not permitted for an action
5 brought under this section.

6 (e) If the court finds for the plaintiff, the defendant shall pay all court
7 costs and reasonable attorney's fees as approved by the court.

8 (f) The provisions of this chapter that apply to territory disannexed
9 by other procedures apply to territory disannexed under this section.

10 SECTION 26. IC 36-4-6-19 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The legislative
12 body may, by ordinance, make loans of money and issue bonds for the
13 purpose of refunding those loans. The loans may be made only for the
14 purpose of procuring money to be used in the exercise of the powers of
15 the city or for the payment of city debts.

16 (b) An ordinance adopted under this section:

17 (1) must include the terms of the bonds to be issued in evidence of
18 the loan;

19 (2) must include the time and manner of giving notice of the sale
20 of the bonds;

21 (3) must include the manner in which the bonds will be sold; and

22 (4) may authorize a total amount for any issue of bonds.

23 (c) Bonds issued under this section may be sold in parcels of any size
24 and at any time their proceeds are needed by the city.

25 (d) Bonds issued and sold by a city under this section:

26 (1) are negotiable with or without registration, as may be provided
27 by the ordinance authorizing the issue;

28 (2) may bear interest at any rate;

29 (3) may run not longer than thirty (30) years;

30 (4) may contain an option allowing the city to redeem them in
31 whole or in part at specified times prior to maturity; and

32 (5) may be sold for not less than par value.

33 (e) The city fiscal officer shall:

34 (1) manage and supervise the preparation, advertisement,
35 negotiations, and sale of bonds under this section, subject to the
36 terms of the ordinance authorizing the sale;

37 (2) certify the amount the purchaser is to pay, together with the
38 name and address of the purchaser;

39 (3) receive the amount of payment certified;

40 (4) deliver the bonds to the purchaser;

41 (5) take a receipt for the securities delivered;

42 (6) pay the purchaser's payment into the city treasury; and

43 (7) report the proceedings in the sale to the legislative body.

44 The actions of the fiscal officer under this subsection are ministerial.

45 ~~(f) This subsection applies only to second class cities subject to~~
46 ~~IC 36-4-10-6. Notwithstanding subsection (e), the fiscal officer of a city~~
47 ~~selling bonds under this section shall deliver them to the county~~
48 ~~treasurer after they have been properly executed and shall take his~~
49 ~~receipt for them. When a contract for the sale of all or any part of the~~
50 ~~bonds is consummated, the fiscal officer shall certify to the county~~
51 ~~treasurer the amount the purchaser is to pay, together with the name~~

1 and address of the purchaser. The county treasurer shall then receive
 2 from the purchaser the amount certified by the fiscal officer, deliver the
 3 bonds to the purchaser, and take the purchaser's receipt for the bonds.
 4 The fiscal officer and county treasurer shall then report the proceedings
 5 in the sale to the legislative body. However, if the county treasurer is
 6 not present to receive the properly executed bonds from the fiscal
 7 officer or to issue the bonds, the fiscal officer shall proceed under
 8 subsection (c).

9 SECTION 27. IC 36-6-4-14 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. When his term of
 11 office expires, the executive shall:

12 (1) immediately deliver to the new executive custody of all funds
 13 and property of the township, except records necessary in the
 14 preparation of his annual report;

15 (2) deliver to the new executive, not later than the second Monday
 16 in the next January, his annual report and any records he has
 17 retained; and

18 (3) attend the annual meeting of the township legislative body ~~on~~
 19 ~~the second Tuesday after the first Monday in the next January; held~~
 20 **under IC 36-6-6-9** and submit to inquiries from the legislative
 21 body concerning the operation of the executive's office during the
 22 preceding calendar year.

23 SECTION 28. IC 36-6-7-3 IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body shall make
 25 annual appropriations for assistants in township offices. Payments shall
 26 be made to assistants ~~monthly~~ on vouchers verified by the claimant and
 27 approved by the officer in whose office he is employed.

28 SECTION 29. IC 36-6-8-11 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Deputies and
 30 other employees of a township assessor must file their claims for
 31 compensation, which must be verified by the township assessor. Claims
 32 for employment that is not on an annual basis must show the actual
 33 number of days employed. Deputies and other employees of a township
 34 assessor shall be paid ~~monthly~~ out of the county treasury, on the
 35 warrant of the county auditor.

36 (b) Employees of the township assessor are entitled to no
 37 compensation other than that provided by this chapter.

38 SECTION 30. IC 36-7-4-208, AS AMENDED BY P.L.276-2001,
 39 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2003]: Sec. 208. (a) ADVISORY. The county plan
 41 commission consists of nine (9) members, as follows:

42 (1) One (1) member appointed by the county executive from its
 43 membership.

44 (2) One (1) member appointed by the county fiscal body from its
 45 membership.

46 (3) The county surveyor or the county surveyor's designee.

47 (4) The county agricultural extension educator. **However, if the**
 48 **county does not have a county agricultural extension educator,**
 49 **the county extension board shall select a resident of the county**
 50 **who is a property owner with agricultural interest to serve on**
 51 **the commission under this subdivision for a period not to**

exceed one (1) year.

(5) Five (5) members appointed in accordance with one (1) of the following:

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party and all four (4) of whom must be residents of unincorporated areas of the county, appointed by the county executive. Also one (1) township trustee, who must be a resident of an unincorporated area of the county, appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party, and all five (5) of whom must be residents of unincorporated areas of the county appointed by the county executive.

If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) ADVISORY. The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who are residents of unincorporated areas of the county, of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan

commission.

(4) One (1) of the following appointed by the county executive:

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee.

(5) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county executive.

(6) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:

(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

(e) AREA. The appointing authority may appoint an alternate member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

SECTION 31. IC 36-8-3-3, AS AMENDED BY P.L.125-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing him to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

(1) the members and other employees of the police department other than those in an upper level policymaking position;

(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body before:

(1) ~~August~~ **September** 20 for a second class city; and

(2) September 20 for a third class city;

of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by

1 ordinance.

2 (e) The safety board, subject to ordinance, may also fix the number
3 of members of the police and fire departments and the number of
4 appointees for other purposes and may, subject to law, adopt rules for
5 the appointment of members of the departments and for their
6 government.

7 (f) The safety board shall divide the city into police precincts and fire
8 districts.

9 (g) The police chief has exclusive control of the police department,
10 and the fire chief has exclusive control of the fire department, subject
11 to the rules and orders of the safety board. In time of emergency, the
12 police chief and the fire chief are, for the time being, subordinate to the
13 city executive and shall obey his orders and directions, notwithstanding
14 any law or rule to the contrary.

15 SECTION 32. IC 36-8-6-2 IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A police pension fund to be
17 known as the 1925 fund is established in each municipality described
18 in section 1(a) of this chapter.

19 (b) The 1925 fund shall be managed by a board of trustees (referred
20 to as the "local board" in this chapter) having at least seven (7) but not
21 more than nine (9) trustees, as follows:

22 (1) The municipal executive, the municipal fiscal officer, ~~(except~~
23 ~~in a city subject to IC 36-4-10-6, in which case the county~~
24 ~~treasurer)~~, and the police chief, who are ex officio voting members
25 of the local board.

26 (2) One (1) retired member of the police department.

27 (3) At least three (3) but not more than five (5) active members of
28 the police department.

29 However, in cities where there are not sufficient members of the police
30 department to appoint a local board consisting of at least five (5)
31 trustees, the local board may be composed of three (3) trustees, those
32 being the executive, the fiscal officer, and the police chief.

33 (c) The trustees under subsections (b)(2) and (b)(3) shall be elected
34 at a meeting of the members of the police department at the central
35 police station on the second Monday in February of each year. The
36 trustees are elected for terms of three (3) years, succeeding those
37 trustees whose terms of office expire on that date. The trustees hold
38 their offices until their successors are elected and qualified.

39 (d) If a vacancy occurs on the local board among those trustees
40 elected by the police department, the police department shall, within a
41 reasonable time, hold a special meeting upon the call of the municipal
42 executive and elect a successor for the remainder of the trustee's term.

43 (e) A majority of all the trustees constitutes a quorum for the
44 transaction of business.

45 (f) The trustees receive no pay for their services and shall be paid
46 only their necessary expenses. However, the trustees, the secretary, and
47 each member of the police department selected by the local board shall
48 be paid their necessary traveling expenses from the 1925 fund when
49 acting upon matters pertaining to the fund.

50 (g) The local board may make all necessary bylaws for:

51 (1) meetings of the trustees;

- (2) the manner of their election, including the counting and canvassing of the votes;
- (3) the collection of all money and other property due or belonging to the 1925 fund;
- (4) all matters connected with the care, preservation, and disbursement of the fund; and
- (5) all other matters connected with the proper execution of this chapter.

SECTION 33. IC 36-8-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The municipal executive is president of the local board, the municipal fiscal officer ~~(or county treasurer)~~ is its treasurer, and the local board shall select one (1) of its members secretary. The secretary shall be paid out of the 1925 fund a sum for ~~his~~ **the secretary's** services as fixed by the local board.

(b) The president shall preside over all meetings of the local board, call special meetings of the police department of the city, and preside over the annual and called meetings of the department concerning the 1925 fund.

(c) The treasurer:

- (1) has custody of all money and securities due or belonging to the 1925 fund and shall collect the principal and interest on them;
- (2) is liable on ~~his~~ **the treasurer's** bond as an officer for the municipality for the faithful accounting of all money and securities belonging to the fund that come into ~~his~~ **the treasurer's** hands;
- (3) shall keep a separate account showing at all times the true condition of the fund; and
- (4) shall, upon the expiration of ~~his~~ **the treasurer's** term of office, account to the local board for all money and securities coming into ~~his~~ **the treasurer's** hands, including the proceeds of them, and turn over to ~~his~~ **the treasurer's** successor all money and securities belonging to the fund remaining in ~~his~~ **the treasurer's** hands.

(d) The secretary shall:

- (1) keep a true account of the proceedings of the local board and of the police department of the municipality when acting upon matters relating to the 1925 fund;
- (2) keep a correct statement of the accounts of each member with the fund;
- (3) collect and turn over to the treasurer of the local board all money belonging to the fund;
- (4) give the local board a monthly account of ~~his~~ **the secretary's** acts and services as secretary; and
- (5) turn over to ~~his~~ **the secretary's** successor all books and papers pertaining to the office.

(e) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of ~~his~~ **the secretary's** duties.

(f) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the municipal clerk. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

(g) Each member of the police department shall turn over to the secretary of the local board, within thirty (30) days after receiving it, all money and securities belonging to the 1925 fund that come into ~~his the~~ **secretary's** hands.

SECTION 34. IC 36-8-7-10, AS AMENDED BY P.L.35-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, ~~or county treasurer acting under IC 36-4-10-6~~, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer (~~or county treasurer~~) shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that ~~he the fiscal officer~~ **he the fiscal officer** will faithfully discharge the duties of ~~his the fiscal officer's~~ office and faithfully account for and pay over to the persons authorized to receive it all money that comes into ~~his the fiscal officer's~~ hands by virtue of ~~his the fiscal officer's~~ office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer (~~or county treasurer~~) until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an

amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

SECTION 35. IC 36-8-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. All money that is collected and received by the local board or an officer of it by virtue of subdivisions (1) through (4) of section 8 of this chapter shall be paid to the unit's fiscal officer, ~~(or county treasurer)~~, who shall credit this money to the 1937 fund. The 1937 fund is a public fund for purposes of IC 5-13.

SECTION 36. IC 36-8-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. The unit's fiscal officer ~~or county treasurer acting under IC 36-4-10-6~~, is the custodian of all money belonging to the 1937 fund, and all money belonging to the fund shall be promptly paid to the officer. The officer is liable on ~~his~~ **the officer's** bond for the faithful performance of all duties imposed upon ~~him~~ **the officer** by this chapter in relation to the fund and for the faithful accounting of all money and securities that come into ~~his~~ **the officer's** possession and belong to the fund. The officer shall keep a separate account of the 1937 fund, which must always show the true condition of the fund.

SECTION 37. IC 36-8-12.2-8, AS ADDED BY P.L.33-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a) Money collected under this chapter must be deposited in one (1) of the following:**

(1) The general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1). and

(2) A hazardous materials response fund established under section 8.1 of this chapter by a city or town having a fire department established under IC 36-8-2-3.

(b) Money collected under this chapter may be used only for the following:

(1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.

(2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter.

(3) Payment to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter.

SECTION 38. IC 36-8-12.2-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.1. (a) The fiscal body of each city or town that establishes a fire department under IC 36-8-2-3 may, by ordinance or resolution, establish a hazardous materials response fund.**

(b) The hazardous materials response fund shall be administered by the unit's fiscal officer, and the expenses of administering the

fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 39. IC 36-9-13-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) For the purpose of obtaining money to pay the cost of:

- (1) acquiring or constructing government buildings;
- (2) acquiring land;
- (3) acquiring systems;
- (4) improving, reconstructing, or renovating government buildings, systems, or land;
- (5) repaying any advances for preliminary expenses made to the building authority by an eligible entity;
- (6) purchasing plans, designs, programs, and devices for governmental buildings or systems; or
- (7) refinancing any loan made under section 31 of this chapter;

the board of directors of a building authority may issue revenue bonds of the authority.

(b) The bonds are payable solely from the income and revenues of the particular government buildings, systems, or land for which the bonds were issued.

(c) The bonds must be authorized by resolution of the board. The bonds:

- (1) bear interest payable semiannually; and
- (2) mature serially, either annually or semiannually, at times determined by the resolution authorizing the bonds.

However, the maturities of the bonds may not extend over a period longer than the period of the lease of the government buildings, systems, or land for which the bonds are issued.

(d) The bonds may, and all bonds maturing after five (5) years from date of issuance shall, be made redeemable before maturity at the option of the board of directors of the building authority. Such a redemption must be at the par value of the bonds, together with the premiums, and under the terms and conditions fixed by the resolution authorizing the issuance of the bonds.

(e) The principal and interest of the bonds may be made payable in any lawful medium.

(f) The resolution authorizing the issuance of the bonds must:

- (1) determine the form of the bonds, including the interest coupons (if any) to be attached to them;
- (2) fix the denomination or denominations of the bonds; and
- (3) fix the place or places of payment of the principal and interest of the bonds, which must be at a state or national bank or trust company within Indiana and may also be at one (1) or more state or national banks or trust companies outside Indiana.

(g) The bonds are negotiable instruments under IC 26-1.

(h) The resolution authorizing the issuance of the bonds may provide for the registration of any of the bonds in the name of the owner as to

1 principal alone.

2 (i) The bonds shall be executed by the president of the board of
3 directors, the corporate seal of the authority shall be affixed to the
4 bonds and attested by the secretary of the board, and the interest
5 coupons (if any) attached to the bonds shall be executed by placing the
6 facsimile signature of the treasurer of the board on them.

7 **(j) The bonds may be sold at a private sale, a negotiated sale, or**
8 **a public sale.**

9 ~~(j)~~ **(k) If the bonds are sold at a public sale, notice** of the
10 sale of the bonds shall be published in accordance with IC 5-3-1.

11 ~~(k)~~ **(l)** The board of directors shall sell the bonds at public sale, for
12 not less than their par value. The board shall award the bonds to the
13 highest bidder, as determined by computing the total interest on the
14 bonds from the date of sale to the dates of maturity and deducting from
15 that amount the premium bid, if any. Any premium received from the
16 sale of the bonds shall be used solely for the payment of principal and
17 interest on the bonds. If the bonds are not sold on the date fixed for the
18 sale, then the sale may be continued from day to day until a satisfactory
19 bid has been received.

20 ~~(l)~~ **(m)** The board of directors may issue temporary bonds, with or
21 without coupons. These bonds, which must be issued in the manner
22 prescribed by this section, may be exchanged for the bonds that are
23 subsequently issued.

24 SECTION 40. IC 36-10-4-16 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A tax on the
26 taxable property in the district, as it appears on the tax duplicate, shall
27 be levied annually by the city legislative body for park purposes.

28 (b) The tax shall be collected the same as other city taxes are
29 collected, and the city fiscal officer ~~(or county treasurer acting under~~
30 ~~IC 36-4-10-6)~~ shall, between the first and fifth days of each month,
31 notify the board of the amount of taxes collected for park purposes
32 during the preceding month. At the date of notification, the city fiscal
33 officer ~~(or county treasurer)~~ shall credit the park fund with the amount.

34 (c) The board may expend on behalf of the city all sums of money
35 collected from:

- 36 (1) taxes;
- 37 (2) the sale of privileges in the parks of the city;
- 38 (3) the sale of bonds of the city for park purposes; and
- 39 (4) any other source.

40 All gifts, donations, or payments that are given or paid to the city for
41 park purposes belong to the general park fund, the special nonreverting
42 operating fund, or the special nonreverting capital fund to be used by
43 the board as provided by this chapter. Warrants for expenditures shall
44 be drawn by the city fiscal officer upon a voucher of the board signed
45 by the president or vice president and secretary.

46 (d) The city legislative body may borrow money for the use of the
47 department and may issue the bonds of the city to pay back the
48 borrowed money in the manner provided by statute for the issue of
49 bonds for the general purposes of the city. However, the board may not
50 contract debts beyond the amount of its annual income and the amount
51 available from the sale of bonds or other sources.

(e) All money remaining in the treasury to the credit of the board at the end of the calendar year belongs to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund for use by the board for park purposes.

(f) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(g) The city legislative body may establish by ordinance upon request of the board:

(1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the city legislative body; or

(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the city legislative body.

The city legislative body shall designate the fund or funds into which the city fiscal officer (~~or county treasurer~~) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the city fiscal officer (~~or county treasurer~~) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the general park fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(h) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(i) Money procured from fees or received from the sale of surplus property shall be deposited at least once each month with the city fiscal officer.

SECTION 41. IC 36-4-10-6 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 42. [EFFECTIVE JULY 1, 2003] **(a) The state board of accounts shall review the format and content of the annual operational report required under IC 8-17-4.1-5, as amended by this act, and shall prescribe a streamlined report that addresses:**

(1) easing the preparation of;

(2) the informational requirements of the users of; and

(3) the promotion of accuracy within;

the revised report.

- 1 **(b) This SECTION expires January 1, 2004.**
- 2 SECTION 43. **An emergency is declared for this act.**
 (Reference is to EHB 1242 as reprinted March 28, 2003.)

Conference Committee Report
on
Engrossed House Bill 1242

Signed by:

Representative Stevenson
Chairperson

Senator Skillman

Representative Ayres

Senator Dembowski

House Conferees

Senate Conferees